

ORDINANCE NO. \_\_\_\_\_, SERIES 2007

AN ORDINANCE RE-ENACTING AND AMENDING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) SECTIONS 115.350, 115.351, 115.352 AND 115.353, WHICH ARE HEREBY RENUMBERED 115.353, 115.351 AND 115.354, RESPECTIVELY, AND 115.999(K) AND ADDING NEW SECTIONS 115.352, 115.355, 115.356 AND 115.357 AND DELETING 110.14(C) AND 110.99(F) PERTAINING TO VENDORS, PEDDLERS, AND SOLICITORS.

Sponsored By: Councilmen Downard and Blackwell

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

**SECTION I:** Pursuant to the provisions of KRS 67C.115(2), LMCO Sections 115.350, 115.351, 115.352 and 115.353, which are renumbered 115.353, 115.351, and 115.354, respectively, and 115.999(K) are hereby readopted, with new sections 115.352, 115.355, 115.356 and 115.357 hereby added as follows:

**§ 115.350 VENDOR PERMIT.**

(A) Subject only to the exception provided in subsection (B) below, it shall be unlawful for any person, firm, or corporation, to sell, vend, promote, dispense, distribute, or otherwise convey, any items or merchandise, or offer to do any of the above acts either on foot, from a cart, stand, or kiosk, or by means of a machine or motor vehicle, whether mobile or not on the public streets, sidewalks, alleys, thoroughfares, right-of-ways or other public places within Louisville Metro.

(B) The Director of the Department of ~~Inspections, Permits, and Licenses~~ Codes and Regulations, after consultation with the Director of Public

Works and Assets, is authorized to designate certain public places within ~~Jefferson County~~ Louisville Metro which the Director determines to be suitable from the standpoint of the health and safety of the public and proper from the standpoint of site characteristics as locations in which activities as set forth in subsection (A) above may be permitted. On such designation, the Director of ~~Inspections, Permits, and Licenses~~ Codes and Regulations or a designated representative may issue permits allowing specific persons, firms, or corporations to utilize such locations for those activities as set forth in subsection (A) of this section.

(C) Permits from Codes and Regulations are not required for activities, set forth in subsection (A), which occur solely on or within park lands or in the right-of-ways of a parkway. A permit for use of park lands or in the right-of-ways of a parkway for the activities set forth in subsection (A) must be obtained from the Director of Metro Parks prior to performing such activities.

(D) Any person, firm or corporation wishing to perform activities set forth in subsection (A) of this section that wants to operate in areas regulated by the Department of Codes and Regulations, and within Metro parks and parkway right-of-ways, must make application and obtain a permit from both the Director of Metro Parks and the Department of Codes and Regulations prior to such activities.

**§ 115.351 EXCEPTIONS.**

The following are exempt from the provisions of Sections 115.350 and 115.356:

- (A) The sale of newspapers by carriers in person or on foot.
- (B) The sale of newspapers by vending machines, provided that the location and design of all such machines is approved by the Director of Public Works and Assets.
- (C) Persons who are engaged in selling or soliciting for the sale of goods at a trade fair, flea market, or sales exhibition sponsored by a sales exhibition promoter or are so engaged on property owned or operated by the State Fair Board or Commonwealth of Kentucky.
- (D) (1) The following organizations and their representatives shall comply with all provisions of § 115.350 as to location on public areas, provided, no fee shall be charged them if all proceeds from sales are returned to their organizations:
  - (a) Organizations holding valid charitable solicitation permits.
  - (b) Bona fide publicly recognized evangelical, missionary, or other religious organizations.
  - (c) Any college, university, or school accredited by any state department of education.

(d) Any bona fide publicly recognized national or regional youth organization.

(e) Any community or neighborhood group with nonprofit status or the Director of ~~Inspections, Permits, and Licenses~~ Codes and Regulations' approval.

(2) The Director may require any organization or individual claiming exemption to appear and present evidence in support of the claim.

#### **§ 115.352 PERMIT/LICENSE STANDARDS.**

(A) No vendor's permit or peddler's license shall be transferable nor shall such permit or license authorize the activities permitted or licensed by any person other than the person to whom it is issued.

(B) Every person to whom a vendor's permit or peddler's license is issued shall at all times while engaged in business have the applicable permit, license or badge in their possession.

(C) The permit and license period shall begin April 1st of each year and terminate on March 31<sup>st</sup> of the following year.

#### **§ 115.353 UNAUTHORIZED USE OF A REGISTERED TRADEMARK.**

(A) It shall be unlawful for any person to knowingly, without the consent of the registrant, to:

(1) Sell, or offer for sale or possess, with intent to sell, any advertising, goods or services containing any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127; or,

(2) Reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in conjunction with the sale or other distribution of such goods or services.

(B) Any investigator of the Department of ~~Inspections, Permits, and Licenses~~ Codes and Regulations may, upon probable cause, without warrant seize goods, labels, signs, prints, packages, wrappers, receptacles or advertisements which contain any reproduction, counterfeit, copy or colorable imitation of a mark registered under KRS 365.560 through KRS 365.625, or under 15 USC Section 1051 through 15 USC Section 1127, and hold them subject to the order of the court before which the owner or one in possession of the property has been charged with violation of this section.

#### **§ 115.354 VENDING TO SCHOOL CHILDREN.**

It shall be unlawful for any person to sell, vend, promote, dispense, distribute, or otherwise convey, any items or merchandise, or offer to do any of the above acts either on foot, from a cart, stand, or kiosk, or by means of a machine or motor vehicle, whether mobile to school-children, within a radius of

one block of any public or private school. This section shall not apply to persons, firms, or corporations selling from a regularly established place of business located in a store or other building.

**§115.355 GENERAL PROVISIONS.**

(A) The Director of Codes and Regulations shall promulgate reasonable rules and regulations in the interest of the health and safety of the public to govern the use and number of such designated public places as referenced in Section 115.350, and the Director may place reasonable conditions on the use and enjoyment of any permits that may be issued and may suspend or terminate as necessary for the public good, pursuant to regulations the office shall issue.

(B) The Director of Codes and Regulations is authorized to establish and promulgate a reasonable schedule of classifications and fees for such permits/licenses as shall be issued pursuant to this Chapter.

(C) The Director of Codes and Regulations shall be authorized to specify the types and variety of those items and activities as specified in this Chapter.

(D) Issuance of a permit/license under this Chapter shall not excuse any permittee from compliance with any other applicable ordinance or law.

(E) A copy of the administrative regulations as promulgated by the Director of Codes and Regulations shall be available for public inspection in the offices of the Department of Codes and Regulations.

**§ 115.356 PEDDLER'S LICENSES FOR ACTIVITIES ON PRIVATE PROPERTY.**

(A) It shall be unlawful for any person, firm, or corporation, to peddle or solicit on foot or motor vehicle within Metro Louisville without first obtaining a Peddler license from the Department of Codes and Regulations. Peddler in this Section means any person who goes upon the premises of any private property, not having been invited by the occupant or owner thereof, for the purpose selling or of taking or intending to take orders for the sale of goods, wares, merchandise or other personal property of any nature for future delivery.

(B) The provisions of LMCO Sections 115.351, 115.352, 115.353, 115.354 and 115.355 shall apply to Peddler licenses for activities on private property.

**§115.357 SEVERABILITY.**

If any section, subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions.

**§ 115.999 PENALTY.**

(K) Any person who violates any of the provisions of §§ 115.350 through 115.356 shall be fined not less than \$100 nor more than \$500 or imprisoned not more than 30 days, or both for each offense. Each activity in violation shall be considered a separate offense.

**SECTION II:** Sections 110.14(C) and 110.99(F) are hereby deleted as follows:

**~~101(C)S/SOLICITORS.12~~**

**110.99 PENALTY.**

~~(F)101(C)~~

**SECTION III:** This Ordinance shall take effect upon its passage and approval.

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Kathleen J. Herron  
Metro Council Clerk

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Rick Blackwell  
President of the Council

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Jerry E. Abramson  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

BY: \_\_\_\_\_

Draft 1 epm 05252007  
1202544 Chapter 115 350-353 Vendors Peddlers Solicitors Draft 3 BE 06 20 2007.doc  
1202544 Chapter 115 350-353 Vendors Peddlers Solicitors Draft 4 BE 2007 08 02.doc  
Draft 3 epm 08022007 11:40 a.m.  
Draft 4 epm 08072007 11:15 a.m.  
1202544 Chapter 115 350-353 Vendors Peddlers Solicitors Draft 5 BE BS EPM 2007 08 08.doc  
Chapter 115 350-353 Vendors Peddlers Solicitors Draft 6 BE BS EPM 80162007



